

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

MERLIN DANCEY HILL

PLAINTIFF

V.

CIVIL ACTION NO. 3:14-CV-62-HTW-LRA

MICHAEL WALKER, ET AL.

DEFENDANTS

MOTION TO WITHDRAW AS COUNSEL OF RECORD

Benny M. May, Tommy D. Goodwin, and the Office of the Attorney General file this Motion to Withdraw as Counsel of Record for Defendant Christopher Epps, requesting withdrawal from representing Epps as to any individual capacity claims in the present cause , and in support would show unto the Court as follows:

1. Plaintiff is a post-conviction inmate who alleges that Defendants at the East Mississippi Correctional Facility (“EMCF”) violated his constitutional rights by failing to transport him for disability medical examinations by the Veteran’s Administration Hospital resulting in a loss of disability benefits.

2. No discovery has been conducted in this case. On January 27, 2015, the Court held an omnibus hearing in this matter. No omnibus order has been entered as of the date and time of this filing.

3. On or about November 5, 2014, Christopher Epps was indicted and charged with accepting bribes in return for awarding State contracts to private companies. *See U.S.A. v. Epps, et al.*, 3:14-CR-111-HTW-FKB. Epps resigned from his position as Commissioner of the Mississippi Department of Corrections that same day. On February 25, 2015, Epps

pled guilty to two counts of the indictment. Sentencing is scheduled for June 9, 2015.

4. Because of the Attorney General's representation of the State of Mississippi and the Mississippi Department of Corrections ("MDOC"), an ethical conflict exists with representing Christopher Epps in his individual capacity given the circumstances discussed above.

5. The Attorney General will continue to represent the Office of the MDOC Commissioner as to any official capacity claims and seeks only to withdraw from representing Epps with regard to individual capacity claims. Governor Phil Bryant has appointed Marshall Fisher as the new Commissioner of the Mississippi Department of Corrections.

6. The undersigned certifies that he has this day mailed, via certified U.S. Mail, return receipt requested, a copy of the present motion to Epps' residence and to his counsel in the above- referenced criminal matter.

7. As set forth above, this case is in the early stages and allowing the undersigned to withdraw as counsel will not prejudice the parties in any way.

8. Should this motion be granted, it is respectfully requested that Christopher Epps be granted sixty (60) days within which to secure new counsel to represent him in this matter in his individual capacity, and that this cause be stayed for that period of time.

WHEREFORE, PREMISES CONSIDERED, the petitioners respectfully request that this Court enter an Order granting the present Motion and permitting the withdrawal of Benny M. May, Tommy D. Goodwin and the Office of the Attorney General as counsel of

record for Christopher Epps, in his individual capacity, and relieving said counsel from any further involvement in the defense of Christopher Epps in his individual capacity in this cause. It is further requested that this matter be stayed for sixty (60) days to allow Christopher Epps to secure new counsel to represent him. Petitioners further request any and all other relief that this Court deems fit.

Respectfully submitted this the 13th day of March, 2015.

**JIM HOOD, ATTORNEY GENERAL
STATE OF MISSISSIPPI**

BY: /s/ Benny M. May

BENNY M. MAY (MSB #100108)

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CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that I have electronically filed the foregoing with the Clerk of the Court using the ECF system, and that I have caused to be mailed, via U.S. Mail, postage prepaid, a true and correct copy of the foregoing document in the above-styled and numbered cause to the following non-ECF participant:

Merlin Dancey Hill, #R4779
EMCF
10641 Hwy 80 W
Meridian, MS 39307
Pro Se

I further certify that a copy of the foregoing was mailed, via certified United States Mail return receipt requested, postage prepaid, to the following:

Christopher Epps
511 Shalom Way
Flowood, MS 39232; and

John M. Colette
John M. Colette and Associates
190 E. Capitol St., Ste 475
Jackson, MS 39201-2153
Counsel for Christopher Epps in United States of America v. Epps, et al.

This, the 13th day of March, 2015.

/s/ Benny M. May